

**BEFORE THE DIVISION OF WATER RIGHTS**

<p>In The Matter Of:</p> <p><b>Three Rivers Ranch c/o Bob Nilsen</b></p> <p><b>RESPONDENT</b></p>	<p><b>MEASURING DEVICE NOTICE</b></p> <p>SEAA No. 1370 DISTRIBUTION ACCOUNTS: 100593, 100604 WATER RIGHTS: 45- 515,523,524,905,906,5246,5284 43-780, 43-783</p>
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**I. AUTHORITY**

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

*(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:*

- (a) each location where water is diverted from a source; and*
- (b) any other location required by the state engineer.*

*(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*

*(3) The state engineer shall approve the design of:*

- (a) the measuring device; and*
- (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*

*(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:*

- (a) forbid the use of water until the user complies with the state engineer's requirement; and*
- (b) commence enforcement proceedings authorized by Section 73-2-25.*

**SCANNED**

## II. STATEMENT OF FACTS

1. The Respondent diverts water from Deep Creek/Mosby Creek at various diversions operated under the Deep Creek distribution system and the Mosby Irrigation Company by the water commissioner.
2. The Respondent owns the water measuring device (Parshall flume) located at or near the point South 682 ft West 371 ft from the NE Corner of section 18, T 3S Range 19 E Salt Lake Base and Meridian. This flume was washed out on the west side and bypassed some of the water flow around or under the flume when it was inspected earlier this year.
3. The Respondent owns/operates and receives water measured at the former Lance Luck West Side Flume located near the point North 90 ft and East 584 ft from the S4 Corner of Section 17, Township 3 South and Range 19 East, Salt Lake Base and Meridian. The flume contains sediment and may need to be elevated to prevent sediment deposits.
4. The Respondent owns and operates another flume formerly known as the Lance Luck East Side flume located at or near the point South 313 ft East 1040 ft from the N4 Corner of Section 20, Township 3 South, Range 19 East, Salt Lake Base and Meridian.
5. The Respondent uses/owns/operates the Nilsen/Allred/Luchies flume located near the point North 512 ft East 837 ft from the SW Corner of section 21, T 3S Range 19 E Salt Lake Base and Meridian.
6. The location of the flumes described in numbers 4 and 5 above are across the stream from the access roads and are not easily accessed without adequate footbridges over the stream near these two flumes. They had sedimentation interference at the time of the inspection.
7. The flumes must function properly to measure Mosby Irrigation Company water and privately owned water distributed by the commissioner.
8. If other water users use these same flumes to measure their water, they are jointly responsible for flume maintenance in the amount proportional to their individual use. These notices were sent to other known water users. There may be additional water users with irrigation company shares that are also partly responsible for flume operation and maintenance.

## III. ACTIONS REQUIRED

1. The respondent must maintain the measuring devices identified above so that they provide an accurate measurement of water deliveries. This requires the flumes to be level and clean and not be submerged to the extent they cannot function properly. If a ditch fills partly with sediment, either the ditch must be cleaned and/or the flume must be cleaned and raised up higher in order for the flume to function properly.

SCANNED

2. Safe footbridges must be provided to enable the commissioner safe access to the flumes identified in item numbers 6 and 7 above. These bridges should at least safely hold two men. Reasonable access to the diversion and flume are required.
3. The work must be completed before April 15, 2010.

#### IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation."

#### V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

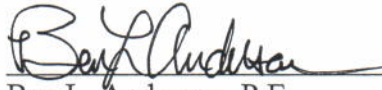
Robert Leake  
*Regional Engineer*  
*Vernal Office/Eastern Region*  
*Utah Division of Water Rights*  
*(435) 781-5327*

Ben Anderson  
*Water Rights Distribution Engineer*  
*Utah Division of Water Rights*  
*(801) 538-7469*

**SCANNED**

1594 W North Temple Ste 220  
P.O. Box 166300  
Salt Lake City, UT 84104-6300

Dated this 14th day of December, 2009

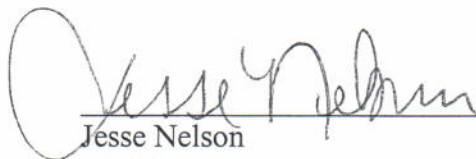


Ben L. Anderson, P.E.  
Water Rights Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 14th day of December, 2009, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Three Rivers Ranch  
c/o Bob Nilsen  
2410 Walker Lane  
Salt Lake City, Utah 84117-7718**



Jesse Nelson  
Division of Water Rights  
Field Services Secretary

cc: Robert Leake, Regional Engineer  
Kristopher Blanchard, Water Commissioner

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2410 Walker Ln  
Salt Lake City, UT 84117

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